(1)

No. 92-6846-CFX
Status: DECIDED

Title: John Robert Demos, Jr., Petitioner
v.
Michael C. Storrie, et al.

Docketed:
October 5, 1992

Court: United States Court of Appeals for the Ninth Circuit

Counsel for petitioner: Demos Jr.,John Robert

Counsel for respondent: Solicitor General

| Entry | Date | Note | Proceedings and Orders |
|---|---|---|---|
| 1 | Oct 5 1992 | D | Petition for writ of certiorari and motion for leave to proceed in forma pauperis filed. |
| 3 | Feb 4 1993 | | DISTRIBUTED. February 19, 1993 |
| 5 | Feb 22 1993 | | REDISTRIBUTED. February 26, 1993 |
| 7 | Mar 1 1993 | | REDISTRIBUTED. March 5, 1993 |
| 9 | Mar 8 1993 | | The motion for leave to proceed in forma pauperis is denied. Dissenting opinion by Justice Stevens with whom Justice Blackmun joins. Opinion per curiam. |

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EDITOR'S NOTE

THE FOLLOWING PAGES WERE POOR HARD COPY AT THE TIME OF FILMING. IF AND WHEN A BETTER COPY CAN BE OBTAINED, A NEW FICHE WILL BE ISSUED.

CASE NO. 92-6866 (2)

IN THE

# ORIGINAL

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1992

Supreme Court, U.S.
FILED
OCT 5 1992
OFFICE OF THE CLERK

JOHN ROBERT DEMOS JR,

(PETITIONER)

VS.

THE 9th CIRCUIT COURT OF APPEALS,

(RESPONDENT)

PETITION FOR A WRIT OF CERTIORARI, OR IN THE ALTERNATIVE, A WRIT OF ERROR/NOTICE OF APPEAL

PETITION FOR WRIT OF CERTIORARI

JOHN ROBERT DEMOS JR
P.O. BOX 888
MONROE, WASHINGTON. (98272)

33pp

## QUESTIONS PRESENTED

1. CAN STATE LAW CONFLICT WITH A DECISION OF THE U.S. SUPREME COURT?

2. CAN FEDERAL CIRCUIT COURT LAW, CONFLICT WITH DECISIONS OF THE UNITED STATES SUPREME COURT?

3. WHO HAS THE FINAL WORD IN RESOLVING A CONSTITUTIONAL QUESTION, OR HOW THE LAW IS TO BE APPLIED IN AMERICA, IS IT THE CIRCUIT COURTS OR IS IT THE U.S. SUPREME COURT?

4. WILL THE U.S. SUPREME COURT INVOKE IT'S ARTICLE 111 (CASE & CONTROVERSY) POWERS POWERS IN THIS MATTER AND GRANT APPELLANT A WRIT OF CERTIORARI TO PREVENT A MANIFEST, AND GRAVE, AS WELL AS PERFIDIOUS MISCARRIAGE OF JUSTICE?

5. IS THE U.S. CONSTITUTION THE SUPREME LAW OF THE LAND?

6. CAN A MAN BE DENIED ACCESS TO THE COURT ON ACCOUNT OF HIS RACE, RELIGION, OR HIS POVERTY?

7. WILL THE U.S. SUPREME COURT TAKE SUPERVISORY CONTROL OVER THIS MATTER?

8. DOES THE U.S. SUPREME COURT HAVE JURISDICTION/SUBJECT MATTER JURISDICTION OVER THIS MATTER?

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NO. 92-6846

IN THE

SUPREME COURT OF THE UNITED STATES

OF AMERICA

OCTOBER TERM, 1992

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Supreme Court, U.S.
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JOHN ROBERT DEMOS JR,

(PETITIONER)

VS.

THE 9th CIRCUIT COURT OF APPEALS,

(RESPONDENT)

PETITION FOR WRIT OF CERTIORARI, OR IN THE ALTERNATIVE A WRIT OF ERROR/NOTICE OF APPEAL TO THE 9th CIRCUIT COURT OF APPEALS---SAN FRANCISCO, CALIFORNIA.

### (I). PRAYER OF THE PETITIONER

PETITIONER/AFFIANT, JOHN ROBERT DEMOS JR, RESPECTFULLY PRAYS THAT THE COURT HEAR THIS CASE PURSUANT TO ARTICLE 111 OF THE U.S. CONSTITUTION, AS A CAUSE AND CONTROVERSY. PETITIONER ALSO PRAYS THAT THE HIGH COURT WILL RESOLVE THIS CONSTITUTIONAL CONFLICT OF LAW IN THIS MATTER, AND RESOLVE THE DISCREPENCIES OF LAW, SO THAT THERE WILL HENCEFORTH BE ONE LAW.

## (2). OPINIONS BELOW

THE OPINION OF THE UNITED STATES COURT OF APPEALS IS REPORTED AS, DEMOS VS. STORRIE, U.S.C.A. CASE NO. 91-35598:

ON 9/22/92 THE U.S. COURT OF APPEALS DENIED MY "MOTION FOR CONSIDERATION/RE-CONSIDERATION OF THE ISSUES".. THE ORIGINAL DECISION WAS ENTERED BY THE 9th CIRCUIT ON 5/11/92:

THE 9th CIRCUIT ALSO DENIED MY PETITION FOR "RE-HEARING" ON 7/8/92.

A COPY OF THE PETITIONER'S MOTION FOR RE-CONSIDERATION, AS TO WHY THE 9th CIRCUIT "ERRED" IS ATTACHED IN THE "EXHIBIT" SECTION OF THIS WRIT OF CERTIORARI.

## (3). JURISDICTION

THE 9th CIRCUIT COURT OF APPEALS OPINION IN THIS MATTER WAS FILED ON, 7/15/92.

A TIMELY PETITION FOR RE-HEARING WAS FILED ON 5/18/92, THE ORIGINAL OPINION WAS FILED ON 5/11/92.

THE 9th CIRCUIT DENIED PETITIONER'S MOTION FOR RE-CONSIDERATION ON 9/22/92, (SEE THE ATTACHED EXHIBIT). THIS COURT'S JURISDICTION IS INVOKED UNDER TITLE 28, U.S.C. 1254 (1) THRU 1258; & 62 STATUTE 828, & 928....

I ALSO INVOKE 28 U.S.C. 1291 THRU 1294;

I ALSO INVOKE ARTICLE 111 OF THE UNITED STATES CONSTITUTION:

## (4). CONSTITUTIONAL & STATUTORY PROVISIONS INVOLVED

THE 1st, AND 14th AMMENDMENT OF THE UNITED STATES CONSTITUTION:

THE ACTS OF CONGRESS;

THE UNITED STATES CODE ANNOTATED;

THE 5th & 6th AMMENDMENT OF THE U.S. CONSTITUTION:

THE 4th AMMENDMENT OF THE U.S. CONSTITUTION:



## (5). STATEMENT OF THE CASE

ON 9/22/92, THE 9th CIRCUIT COURT OF APPEALS "DENIED" DEMOS' MOTION FOR RE-CONSIDERATION OF THE ISSUES THAT WERE OF A "CONSTITUTIONAL MAGNITUDE", AS THERE EXHISTS CONFLICT BETWEEN THE DECISIONS OF THE LOWER COURTS:

THE U.S. SUPREME COURT HAS RULED IN ALLEN VS. McCURRY, 449 U.S. 90; THAT THE LAW OF RES JUDICATA, AND COLATTERAL ESTOPPEL "APPLIES" WHEN THE ACTION INVOLVES THE SAME CAUSE OF ACTION, AND THE SAME PARTIES. FURTHER, ALLEN VS. McCURRY, 449 U.S. 90 STATES THAT THE DOCTRINE OF COLLATERAL ESTOPPEL "CANNOT" APPLY IF THE LITIGANT DID NOT HAVE A FULL & FAIR OPPORTUNITY TO LITIGATE THE ISSUES. (DEMOS DID NOT HAVE A FULL & FAIR OPPORTUNITY TO LITIGATE THE ISSUES, AS PRISON GUARDS CONFISCATED HIS LEGAL PAPERS, NOTES, LAW BOOKS, AND COURT DOCUMENTS, WHEN I WROTE THE U.S. DISTRICT COURT REQUESTING DUPLICATE DOCUMENTS, I WAS TOLD THAT THE COURT WAS ONLY REQUIRED TO SEND ME (1) COPY OF A PLEADING, AND THAT THE FACT THAT I WAS INDIGENT, AND COULD NOT PAY FOR THE COPYING CHARGES WAS IRRELEVANT, THE COURT COULD NOT PROVIDE ME WITH FREE COPIES OF THE DOCUMENTS THAT THE PRISON GUARDS HAD TAKEN IN RETALIATION FOR MY LAWSUITS, AND IN AN EFFORT TO TRY AND BLOCK MY ACCESS TO THE COURTS). (SEE THE ATTACHED EXHIBIT)....

FURTHER, AFFIANT, PETITIONER MAINTAINS, THAT THE ISSUES IN THIS MATTER CONCERN A "FEDERAL U.S. DISTRICT COURT, AS OPPOSED TO A "STATE" COURT, AND THE UNITED STATES SUPREME COURT CAN ACCEPT "SUPERVISORY CONTROL" OVER THE MATTER.....

DEMOS IS APPEALING THE INVOCATION, AND APPLICATION OF A "STANDING ORDER" IMPOSED BY THE U.S. DISTRICT COURT OF SPOKANE, WASHINGTON.

DEMOS MAINTAINS THAT THE "STANDING ORDER" IN, AND OF ITSELF, IS "UNCONSTITUTIONAL", AND VIOLATES THE LETTER, AND THE SPIRIT OF THE INTENT OF CONGRESS, AND THAT THE U.S. SUPREME COURT SHOULD INVOKE THE "RULE OF LENITY" IN THIS MATTER....

DEMOS MAINTAINS THAT THE 9th CIRCUIT IS REFUSING TO ALLOW HIM TO APPEAL THE "STANDING ORDER", EVEN THOUGH DEMOS HAS INFORMED THE 9th CIRCUIT OF THE REASON WHY HE WAS "TARDY" IN PERFECTING HIS APPEAL. THE REASON WAS BECAUSE PRISON GUARDS INTERFERED WITH MY ATTEMPT TO MAKE THE APPEAL TIMELINE, BY CONFISCATING MY LEGAL PAPERS, (TRULY THIS WAS AN ACT OUTSIDE MY CONTROL).

STATEMENT OF THE CASE/PART. 11.

DEMOS AVERS THAT THE STANDING ORDER HE WAS TRYING TO APPEAL FROM WAS ENTERED BY THE U.S. DISTRICT COURT IN CASE NO. 925 F. 2D 1160, DEMOS ADMITS THAT HE DID NOT APPEAL FROM THE STANDING ORDERS WHEN THEY WERE FIRST INSTITUTED, BUT THAT WAS NOT BECAUSE DEMOS DID NOT TRY, IT JUST SO HAPPENED THAT DEMOS' LEGAL MAIL WAS OBSTRUCTED BY PRISON OFFICIALS, AND A LOT OF HIS LEGAL PAPERS WERE SUBSEQUENTLY CONFISCATED BY PRISON GUARDS FROM HIS CELL.

DEMOS AVERS THAT AYERS VS. CITY OF RICHMOND, 895 F. 2D 1267; IS "INAPPOSITE" IN THIS MATTER, AND DOES NOT APPLY, DUE TO EXTENUATING, AND MITIGATING CIRCUMSTANCES, THE CHIEF BEING THE FACT THAT "PRISON GUARDS" INTERFERED WITH DEMOS' RIGHT TO TIMELY PERFECT HIS APPEAL OF THE U.S. DISTRICT COURT STANDING ORDER.

FURTHER, AYERS VS. CITY OF RICHMOND, 895 F. 2D 1267, "CONFLICTS" WITH ALLEN VS. McMURRY, 101 S. CT. 411;

WILL THE U.S. SUPREME COURT RESOLVE THIS CONFLICT?

WILL (4) JUSTICES OF THE "FAMED" U.S. SUPREME COURT VOTE TO HEAR THE ISSUES IN THIS CASE, AS THEY RELATE TO THE PUBLIC INTREST, AND DUE PROCESS OF LAW.?

DEMOS MAINTAINS THAT THE U.S. SUPREME COURT CLEARLY STATED IN ALLEN VS. McMURRY, 101 S. CT. 411; THAT IF THE PARTIES "ARE NOT THE SAME" IN THE TWO LAWSUITS, THEN COLLATERAL ESTOPPEL NEED NOT APPLY, AND THAT IF THERE ARE "EXCEPTIONAL CIRCUMSTANCES" PRESENT, SUCH AS THE LITIGANT DID NOT RECIEVE A FULL & FAIR HEARING OR OPPORTUNITY TO RAISE OR ARGUE THE ISSUE THE FIRST TIME, ThEN THE MATTER OF COLLATERAL ESTOPPEL, ISSUE PRECLUSION, AND RES-JUDICATA CAN BE WAIVED.... (THE CIRCUITS CONFLICT ON THIS ISSUE).

THE CONFLICT IS EVIDENCED BY THE DECISION OF THE 9th CIRCUIT NOT TO APPLY THE RECENT RULING OF THE U.S. SUPREME COURT IN ALLEN VS. McMURRY, 101 S. CT. 411;



(6). REASONS FOR GRANTING THE WRIT

A: THERE IS A CONFLICT AMONGST THE LOWER CIRCUIT COURTS ON THIS ISSUE, AND THE U.S. SUPREME COURT MUST INTERVENE TO GIVE CLEAR, COGENT, AND CONVINCING GUIDANCE TO THE LOWER FEDERAL COURTS, SO THAT THE LAW ON THIS ISSUE WILL BE NON-VAGUE, AND UNAMBIGUOUS.

B: THE RULING OF THE 9th CIRCUIT COURT OF APPEALS "CONFLICTS" WITH, U.S. VS. CHICAGO, M & ST. P.R. CO, 75 L. ED 359; AND WITH STATE EX REL, BRUNDAGE VS. EIDE, 83 WN. 2D 676;

C: THERE ARE PRESENT EXCEPTIONAL, AND EXTRAORDINARY REASONS, WARRANTING THE TIME OF THE UNITED STATES SUPREME COURT TO RESOLVE THE ISSUE.

D: THE 9th CIRCUIT SHOULD NOT BE ALLOWED TO HOLD DEMOS' ERRORS, AND OMMISSIONS IN THE SAME LIGHT AS THEY WOULD A CERTIFIED, AND REPUTABLE ATTORNEY AT LAW, POTTER VS. McCALL, 433 F. 2D 1087;

E: FURTHER, THE DOCTRINE OF COLLATERAL ESTOPPEL IS NOT "EVENLY" APPLIED BETWEEN THE "RICH & THE POOR", IN THAT A RICH PERSON MORE OFTEN THEN NOT, WILL BE GIVEN THE BENEFIT OF THE DOUBT WHEN A ISSUE OF ISSUE PRECLUSION COMES UP, WHEREIN A "POOR" MAN WILL BE NAILED TO THE CROSS OF FRIVILOUSNESS, AND MOOTNESS. PAYTON VS. N.Y. 445 U.S. 573; DUE TO THE FACT THAT EXTRAORDINARY ISSUES ARE PRESENT, AND THAT EXCEPTIONAL MATTERS OF CONCERN TO THE GENERAL WELFARE, AND COMMUNITY ARE AT THE FORE, THAT THE HIGH COURT INVOKE, McMURTRY VS. U.S. 88 L. ED 1075;

DEMOS ONLY ASKS THAT THE U.S. SUPREME COURT EITHER "REVERSE" THE DECISION OF THE 9th CIRCUIT, REMAND IT BACK DOWN, OR GRANT CERTIORARI AND SET OUT A "NEW" STANDARD OF LAW ON THE ISSUE OF "COLLATERAL ESTOPPEL", AND WHETHER OR NOT A PRISON INMATE CAN BE FORCED TO "WAIVE" HIS RIGHT TO APPEAL, IF THERE ARE PRESENT EXTENUATING, SPECIAL, AND EXTRAORDINARY SITUATIONS/CIRCUMSTANCES OVER WHICH THE INMATE HAD NO CONTROL.

REASONS FOR GRANTING THE WRIT/PART. 11.

F: THE DECISION OF THE 9th CIRCUIT COURT OF APPEALS IN THIS CASE, CONFLICTS BY IMPLICATION, AND BY PROXY, WITH THE RECENT DECISIONS OF THE U.S. SUPREME COURT.

G: THE LOWER CIRCUIT COURTS ARE SPLIT, AND UNAGREED ON JUST WHAT IS THE PROPER PROCEDURE, WHEN THE PARTIES TO A ESTOPPEL ORDER ARE NOT "THE SAME", AND THE ISSUES ARE NOT THE SAME..

H: THE HIGH COURT HAS IMPLICITLY HELD THAT THE "PARTIES" IN THE DISPUTE MUST BE THE SAME, DEMOS MAINTAINS THAT THE DEFENDANTS IN THIS MATTER, WERE NOT THE SAME DEFENDANTS, NOR WERE THE ISSUES THE SAME, AS WERE THE ISSUES, AND PARTIES IN THE CASE OF DEMOS VS. U.S.D.C., 925 F. 2D 1160;

I: IT IS WELL SETTLED THAT PRISON GUARDS, AND PRISON STAFF AT THE WASHINGTON STATE PRISON IN WALLA WALLA, WA. WHERE DEMOS WAS CONFINED IN (1984) DID NOT LIKE DEMOS, AND WANTED DEMOS DEAD. (SEE U.S. DISTRICT COURT CASE NO.'s C-89-785-WFN; & CV-91-47-RJM) (PRISON GUARDS WOULD SUBJECT DEMOS TO ANAL RECTAL DIGITAL PROBES JUST TO HARASS DEMOS, AND WOULD CONFISCATE DEMOS' LEGAL PAPERS, AND PLACE HIM IN THE HOLE JUST TO RETALIATE AGAINST DEMOS FOR HIS LEGAL WORK). (PRISON GUARDS ALSO HELD UP THE MAILING OF DEMOS' OUTGOING LEGAL MAIL, AND WOULD OPEN UP DEMOS' INCOMING LEGAL MAIL OUTSIDE OF HIS PRESENCE, WITHOUT FIRST OBTAINING A "SEARCH WARRANT"TO OPEN THE LEGAL MAIL)

DUE TO THE ABOVE FACTORS, I FEEL THAT WILSON VS. GIRARD, 354 U.S. 524, SPEARS VS. U.S. 266 F. SUPP. 22; ALDABE VS. ALDABE, 616 F. 2D 1089; FRANKLIN VS. OREGON, 662 F. 2D 1337 IS APPROPRIATE: LASTLY, THE 9th CIRCUIT, PURSUANT TO IN RE LANE, 801 F. 2D 1040, SHOULD HAVE APPOINTED ME COUNSEL IN THIS APPELLATE MATTER.



(7). CONCLUSION

CLEARLY, THE 9th CIRCUIT HAS EMPLOYED AN "EVIL EYE AND AN UNEVEN HAND" IN THIS MATTER, YICK WO VS. HOPKINS, 118 U.S. 356;

FURTHER, EVIDENCE OF PAST MISCONDUCT ON THE PART OF DEMOS IN THE PAST IN USING THE JUSTICE SYSTEM, CANNOT BE USED TO SHOW LIKELIHOOD OF MISCONDUCT IN A "NEW", AND UNDECIDED CASE, THE COURT MUST EXAMINE EACH PLEADING ON A "INDIVIDUALIZED" BASIS. LATAILLE VS. PONTE, 754 F. 2D 33;

DEMOS MAINTAINS THAT THE RULES OF APPELLATE PROCEDURE "WERE NOT" DESIGNED TO SET TRAPS, AND PITFALLS BY WAY OF TECHNICALITIES FOR UNWARY LITIGANTS, WILLIS VS. NEWSOME, 747 F. 2D 605; THIS ARGUMENT IS GIVEN ADDED WEIGHT WHEN THE HIGH COURT TAKES INTO ACCOUNT THE FACT THAT "ACTIONS ON THE PART OF PRISON ADMINISTRATORS THAT OTHERWISE WOULD BE PERMISSIBLE, ARE UNCONSTITUTIONAL IF IT IS TAKEN IN "RETALIATION", OR IN VINDICATION FOR DEMOS' EXERCISE OF HIS CONSTITUTIONAL RIGHT TO PETITION THE GOVERNMENT FOR A REDRESS OF HIS GRIEVANCES, BRADLEY VS. PITTSBURGH BOARD OF EDUCATION, 910 F. 2D 1172;

"JUSTICE" BEING DONE IS THE PRIMARY CONCERN OF EVERY CIVIL CASE, JENCKS VS. U.S. 353 U.S. 657;

"LITIGIOUSNESS ALONE" WILL NOT SUPPORT AN "INJUNCTION" RESTRICTING PLAINTIFF'S FILING ACTIVITIES, ABDUL-AKBAR VS. WATSON, 901 F. 2D 329;

FURTHER, A LAW, OR COURT RULE IS "OVERBROAD" IF IT PROHIBITS NOT ONLY ACTS THE LEGISLATURE, OR CONGRESS MAY FORBID, BUT ALSO CONSTITUTIONALLY PROTECTED CONDUCTED, SUCH AS THE RIGHT OF ACCESS TO THE COURTS, AND THE RIGHT TO PETITION THE GOVERNMENT FOR A REDRESS OF GRIEVANCES, SCHWARTZMILLER VS. GARDNER, 752 F. 2D 1341; (DEMOS' WHOLE ARGUMENT IS TANGENT TO THE FACT THAT HE FEELS THAT HE HAS A RIGHT TO BE FREE FREE FROM UNREASONABLE SEARCHES & SEIZURES OF HIS LEGAL EFFECTS WHILE IN PRISON, AND FREE FROM UNJUSTIFIABLE CONFISCATIONS, U.S. VS. HINKLEY, 672 F. 2D 115).

CONCLUSION/PART. 11.

THE DRACONIAN RIGIDITY OF THE 9th CIRCUIT IS NOT WHAT IS REQUIRED IN THIS MATTER, WHAT IS REQUIRED, AND CALLED FOR IS THE WISDOM, AND COMPASSION OF A "SOLOMON". THE ISSUES IN THIS WRIT, WILL RISE, AND FALL "SUA SPONTE. THIS CASE IS BEYOND THE POWERS OF THE 9th CIRCUIT, IT IS IN THE HANDS OF THE U.S. CONSTITUTION. THIS CASE "INTER-ALIA" CONCERNS A CONFLICT OF COURT. HOPEFULLY THIS SYLLOGISTIC ARGUMENT OF MINE, WILL GIVE THE COURT REASON FOR PAUSE, AND CONCERN, AND WILL CAST THE LIGHT OF JUDICIAL REVIEW DOWN THE CORRIDORS OF THE LOWER APPELLATE COURTS, FOR THE ARGUMENT OF PETITIONER IS "TANGENTIAL" IN THAT IT TOUCHES UPON THE (4) CORNERS OF CONSTITUTIONAL LAW.

A "MYOPIC" VIEWPOINT IS NOT WHAT IS NEEDED IN THIS CASE, NOR IS A "IDIOSYNCRATIC" VIEW CALLED FOR, BUT WHAT IS CALLED ON THE COURT TO MAKE IS A "AXIOMATIC" UNIVERSAL VIEW OF THE ISSUE.

THE "CENTRAL" QUESTION IN THIS MATTER, IS WHETHER OR NOT DEMOS CAN "LOSE" HIS RIGHT TO A TRIAL BY JURY, DEMOS WAS NEVER AFFORDED A JURY TRIAL BEFORE THE STANDING ORDERS WERE APPLIED, CAN THE 9th CIRCUIT DENY DEMOS A HUMANE JURY TRIAL IN THIS MATTER, AND THE RIGHT TO APPEAL THE STANDING ORDERS, WHEN THE ISSUE TO BE DECIDED HAS PREVIOUSLY BEEN ADJUDICATED ADVERSELY TO DEMOS IN A PRIOR PROCEEDING AT WHICH TIME THERE WAS NO JURY TRIAL? BEACON THEATRES VS. WESTOVER, 359 U.S. 500; RACHAL VS. HILL, 435 F. 2D 59; EVERGREENS VS. NUNAN, 141 F. 2D 927;

CLEARLY, THIS MATTER CONSTITUTES A "CONTINUING CONTROVERSY" THAT IS ON-GOING, AND HAS NEVER BEEN CLEARLY RESOLVED, OR ADJUDICATED, CROMWELL VS. COUNTY OF SAC, 94 U.S. 351; STATE VS. GOODEN, 51 WN. APP. 615; ***KREMER VS. CHEMICAL CONSTRUCTION CORP, 456 U.S. 461; I ASK IN CONCLUSIN, THAT THE U.S. SUPREME COURT "LIFT" THE STANDING ORDERS/INJUNCTIONS THAT HAVE BEEN LEVELLED AGAINST ME IN AN ARBITRARY, MALICIOUS, AND CAPRICIOUS MANNER BY THE LOWER COURTS, U.S. VS. HARRISON COUNTY, 399 F. 2D 485;

/S/ John F. Demos



Exhibit B

JUDGMENT

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JUL 20 1992
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA
DEPUTY

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

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NO. 91-35598
CT/AG#: JD-17-RJB

JOHN ROBERT DEMOS, JR.

Plaintiff - Appellant

v.

MICHAEL C. STORRIE; FELIX E. MASSAIA, et al

Defendants - Appellees

RJB
USP
C/C USM

---

APPEAL FROM the United States District Court for the Western District of Washington (Tacoma) .

THIS CAUSE came on to be heard on the Transcript of the Record from the United States District Court for the Western District of Washington (Tacoma) and was duly submitted.

ON CONSIDERATION WHEREOF, It is now here ordered and adjudged by this Court, that the judgment of the said District Court in this cause be, and hereby is AFFIRMED.

Filed and entered: 05/11/92

A TRUE COPY
CATHY A. CATTERSON
Clerk of Court
ATTEST
JUL 15 1992
by Sylvia McPherson
Deputy Clerk

FILED ____ LODGED
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JUL 20 1992
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA
BY ____ DEPUTY

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FILED
MAY 11 1992
CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

| | | |
|---|---|---|
| JOHN ROBERT DEMOS, JR., Plaintiff-Appellant, v. MICHAEL C. STORRIE; FELIX E. MASSAIA, et al., Defendants-Appellees. | ) | No. 91-35598 D.C. No. JD-17-RJB MEMORANDUM* |

Appeal from the United States District Court
for the Western District of Washington
Robert J. Bryan, District Judge, Presiding

Submitted May 5, 1992**

Before: HUG, THOMPSON, and FERNANDEZ, Circuit Judges.

John Robert Demos appeals pro se from the district court's order denying him leave to file his 42 U.S.C. § 1983 complaint in forma pauperis pursuant to a pre-filing order which required him to file a separate statement providing factual allegations showing good cause for suit. On appeal, Demos challenges the district court's imposition of the pre-filing order itself. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

In a prior appeal by Demos, this court noted that the district courts in both the Eastern and Western Districts of Washington had previously entered standing orders against Demos which require him to comply with certain prerequisites before being permitted to file in forma pauperis actions. See Demos v. United States Dist. Court For Eastern Dist. of Washington, 925 F.2d 1160, 1161 (9th Cir. 1991), cert. denied, 111 S. Ct. 1082 (1991).[1/] This court concluded that because Demos did not appeal from the standing orders, they had become final. See id. (citing Ayers v. City of Richmond, 895 F.2d 1267, 1271 (9th Cir. 1990) (a judgment is final once the time for appeal has passed). Therefore, we will not consider whether the district court erred in imposing the standing pre-filing order. See Adamian v. Lombardi, 608 F.2d 1224, 1228 (9th Cir. 1979), cert. denied, 446 U.S. 938 (1980) (issue resolved on prior appeal is law of the case which is binding upon the panel).

**AFFIRMED.**

A TRUE COPY
CATHY A. CATTERSON
Clerk of Court
ATTEST
JUL 15 1992
by: Sylvia McAlister
Deputy Clerk

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. Fed. R. App. P. 34(a); 9th Cir. R. 34-4.

1/ In Demos, 925 F.2d at 1160, this court held that Demos had abused the privilege of filing in forma pauperis appeals and barred the filing of any further petitions in this court seeking extraordinary writs directed at the United States District Courts for the Eastern and Western Districts of Washington.

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUL - 8 1992

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

| | |
|---|---|
| JOHN ROBERT DEMOS, JR., Plaintiff-Appellant, v. MICHAEL C. STORRIE; FELIX E. MASSAIA, et al., Defendants-Appellees. | No. 91-35598<br>D.C. No. JD-17-RJB<br>ORDER |

Before: HUG, THOMPSON, and FERNANDEZ, Circuit Judges.

Appellant's petition for rehearing is DENIED.

AO 72
(Rev.8/82)

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MAR - 4 1991
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA
BY DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

| | |
|---|---|
| JOHN ROBERT DEMOS, JR., Plaintiff, vs. DR. MICHAEL C. STORRIE, DR. FELIX E. MASSAIA, et al., Defendants. | O R D E R |

This matter comes before the court pursuant to the Order of U.S. District Judge Walter T. McGovern (In re Complaints and Petitions Submitted by John Robert Demos, No cause number, W.D.Wa. December 15, 1982), under which the plaintiff is required to make certain showings before being allowed to file any further actions in forma pauperis. In particular, the plaintiff must submit "a separate statement, based on factual allegations, showing good cause why he should be permitted to sue on the complaint".

In this action (once previously rejected by this court) the plaintiff charges that the defendants, Psychologist Felix E. Massaia and Psychiatrist Michael E. Storrie, conspired to place false information in his medical file in order to sabotage any chance of release. The plaintiff's "Seperate Statement Based on Factual Allegations" does not itself rest on any factual allegations, but refers to a substantial packet of exhibits. The packet contains various reports and documents pertaining to the plaintiff's medical and psychological state from 1974 onwards. Although the bulk of the exhibits are authored neither by Storrie nor Massaia, none of the documents (despite being drafted by various individuals scattered about Western State Hospital, Washington State Penitentiary, and the Washington State Reformatory and Special Offenders Center at Monroe) are significantly inconsistent with the few reports that were authored by Massaia or Storrie. The plaintiff was evidently seen by Defendant Massaia only in 1974 and by Defendant Storrie only in 1980. See Report by J. Loeken dated April 4, 1983. The exhibits provide no factual support for the plaintiff's charges that Storrie and Massaia have ever conspired (or even met) nor that their reports were false.

Accordingly, because neither the plaintiff's Complaint nor "Seperate Statement" provide any "factual allegations, showing good cause" for suit, it is hereby

ORDERED that in forma pauperis status is DENIED; the





clerk of court shall return these pleadings to the plaintiff.

DATED this 4 day of March, 1989.

Robert J. Bryan
UNITED STATES DISTRICT JUDGE

Recommended for Entry this 22 day of February, 1991.

Franklin D. Burgess
UNITED STATES MAGISTRATE JUDGE

IN THE

UNITED STATES SUPREME COURT IN

WASHINGTON, D.C.

ORIGINAL

JOHN ROBERT DEMOS JR,

(PETITIONER)

VS.

THE 9th CIRCUIT COURT OF APPEALS,

(RESPONDENT)

CASE NO: 92-6846

AFFIDAVIT OF SERVICE BY MAILING

Supreme Court, U.S.
FILED
OCT 5 1992
OFFICE OF THE CLERK

RECEIVED
OCT - 5 1992
OFFICE OF THE CLERK
SUPREME COURT, U.S.

STATE OF WASHINGTON )
) ss
COUNTY OF SNOHOMISH )

AFTER BEING FIRST DULY SWORN, upon oath, I, the undersigned do herein depose and say:

I am a citizen of the United States and competent to be a witness therein:

On the 30th day of SEPTEMBER, 1992, I deposited in the U.S. Mail, Postage prepaid, and addressed as follows:

THE UNITED STATES SOLICITOR GENERAL
c/o THE HON. KENNETH W. STARR
THE U.S. DEPARTMENT OF JUSTICE
10th STREET & CONSTITUTION AVENUE N.W.
WASHINGTON, D.C. (20530)

Copies of the following:

(1) WRIT OF CERTIORARI OR IN THE ALTERNATIVE A NOTICE OF APPEAL: (1) Exhibit John R. Demos

SUBSCRIBED AND SWORN TO, before me this 30 day of Sept. 1992.

Madeline Sienda

NOTARY PUBLIC, in and for the State of Washington.

My Commission expires: Nov 1992

MADELINE McGREAL SIENDA
NOTARY PUBLIC
STATE OF WASHINGTON
COMMISSION EXPIRES NOV. 5, 1992

AFFIDAVIT OF SERVICE BY MAILING



92-6846

**UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT**
**P.O. BOX 193939**
**SAN FRANCISCO, CALIFORNIA 94119-1939**
April 23, 1992

In re: 91-35598 Demos v. Storrie

To All Parties:

The United States Court of Appeals for the Ninth Circuit is considering submission of your case without argument. You have ten (10) days from the receipt of this letter to present a statement setting forth the reasons why oral argument should be heard in this case. Please send an original and three (3) copies of your statement to the Clerk's Office in San Francisco, and show proof of service to opposing counsel.

The court welcomes additional citations, without argument, of relevant decisions rendered since the filing of a party's last brief (see Rule 28(j) of FRAP). Send an original and three (3) legible copies to me, on letter size paper, with proof of service on all parties.

Very truly yours,

CATHY A. CATTERSON
Clerk of Court

Tim Hom

By: Tim Hom
Deputy Clerk

Office of the Clerk
United States Court of Appeals for the Ninth Circuit
121 Spear Street, P. O. Box 193939
San Francisco, CA 94105-3939

July 15, 1992

USDC, Tacoma
Western District of Washington (Tacoma)
P.O. Box 1935
Tacoma, WA 98401

| C.A. NO. | TITLE | AGENCY/ D.C. NO. |
|---|---|---|
| 91-35598 | Demos v. Storrie, et al | JD-17-RJB |

Dear Clerk:

The following document(s) in the above listed cause(s) is (are) being sent to you under cover of this letter. Counsel are being served with a copy of this letter only.

[x] Certified copy of the Decree of the Court
[ ] Judgment of the National Labor Relations Board
[ ] Certified copy of the Entry of Dismissal

The record on appeal will follow under separate cover.

Please acknowledge receipt on the enclosed copy of this letter.

Very truly yours,

Cathy A. Catterson
Clerk of Court

By: Sylvia McAlister
Deputy Clerk

Enclosure(s)
ALL COUNSEL, WITHOUT ENCLOSURES

IN THE
UNITED STATES COURT OF APPEALS IN AND FOR
THE "9th" CIRCUIT

RECEIVED
CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS
JUL 1992
FILED
DATED

JOHN ROBERT DEMOS JR,
(PLAINTIFF-APPELLANT)
VS.
MICHAEL C. STORRIE, FELIX MASSAIA, ET AL.,
(DEFENDANTS-APPELLEES)

U.S.C.A. CASE NO. 91-35598
U.S.D.C. ACUTUAL CASE NO. JD-17-RJB

"MOTION FOR RE-CONSIDERATION"

PURSUANT TO 9th CIRCUIT COURT RULES #6, & 26;
28 U.S.C. 1291

TO: THE CLERK OF THE ABOVE REFERENCED COURT:

COMES NOW THE PLAINTIFF/APPELLANT, JOHN ROBERT DEMOS JR, WHO AVERS THE FOLLOWING UNDER THE PAIN, AND PENALTY OF PERJURY, THAT I AM A U.S. CITIZEN, AND THAT I AM COMPETENT TO BE A WITNESS HEREIN.

(1). STATEMENT OF THE CASE

ON 5/11/92; THE 9th CIRCUIT COURT OF APPEALS AFFIRMED THE DECISION OF THE LOWER UNITED STATES DISTRICT COURT OF TACOMA, WA.

HOWEVER, I DID NOT RECIEVE A COPY OF THE ORDER DISMISSING MY SUIT UNTIL JULY 20th, 1992, OR SOMETIME THEREABOUTS. (SEE THE ATTACHED EXHIBIT MARKED A).

THE 9th CIRCUIT COURT OF APPEALS MAINTAINED THAT THE U.S. DISTRICT COURT COULD IMPOSE A "PRE-FILING ORDER" AGAINST DEMOS, AND THAT BECAUSE DEMOS FAILED TO APPEAL THE STANDING ORDERS, THAT THEY HAD INDEED "BECOME FINAL", DEMOS VS. U.S.D.C. FOR THE EASTERN DISTRICT OF WASHINGTON, 925 F. 2D 1160;

(2). REASONS WHY THIS MOTION SHOULD BE GRANTED

1. THE LAW IS CLEAR, ALLEN VS. McCURRY STATES, THAT THE LAW OF RES JUDICATA, AND COLLATERAL ESTOPPEL APPLIES WHEN "THE ACTION INVOLVES THE SAME CAUSE OF ACTION, AND THE SAME PARTIES", ALLEN VS. McCURRY, 101 S. CT. 411; (449 U.S. 90) further, allen vs. mccurry, 101 S. ct. 411; STATES THAT "COLLATERAL ESTOPPEL" CANNOT APPLY WHEN THE LITIGANT DID NOT HAVE A FULL AND FAIR OPPORTUNITY TO LITIGATE THE ISSUES. (DEMOS DID NOT HAVE A FULL & FAIR OPPORTUNITY TO LITIGATE THE ISSUES). IN MATTERS CONCERNING A FEDERAL COURT DECISION, THE 9th CIRUCIT "MAY" APPLY THE COLLATERAL ESTOPPEL DOCTRINE, BUT IN MATTERS CONCERNING THE "STATE COURTS", THE FEDERAL COURTS HAVE BEEN SPECIFICALLY REQUIRED BY CONGRESS TO APPLY THE "COLLATERAL ESTOPPEL" DOCTRINE. (DEMOS MAINTAINS THAT THE ISSUES INVOLVED IN THIS INSTANT CASE DO NOT CONCERN A STATE COURT, BUT RATHER A DECISION OF A U.S. DISTRICT COURT, THUS, THE 9th CIRCUIT HAS "DISCRETION" TO WAIVE THE APPLICATION OF THE COLLATERAL ESTOPPEL DOCTRINE IN THIS MATTER. 28 U.S.C.A. 1738;

DEMOS MAINTAINS THAT FOR THE 9th CIRCUIT TO APPLY COLLATERAL ESTOPPEL IN THIS CASE, OR TO SAY THAT DEMOS CANNOT CHALLENGE THE "LEGALITY" OF THE STANDING ORDER ENTERED AGAINST (AGAINST) HIM IN DEMOS VS. U.S.D.C. 925 F. 2D 1160, IS UNCONSTITUTIONAL, DUE TO THE FACT THAT THE PARTIES IN THE SUIT ARE NOT THE SAME, THE PARTIES ARE DIFFERENT. MONTANA VS. UNITED STATES, 440 U.S. 147; DEMOS MAINTAINS THAT HE DID NOT HAVE A FULL AND FAIR OPPORTUNITY TO APPEAL THE STANDING ORDER IN THE FIRST INSTANCE IN DEMOS VS. U.S.D.C., 925 F. 2D 1160; BECAUSE PRISON GUARDS HAD ENTERED HIS CELL, AND CONFISCATED HIS LEGAL PAPERS, THEREBY, PREVENTING DEMOS FROM HAVING ACCESS TO THE RECORDS, AND THE COURT RECORDS, AND VIRTUALLY EXTINQUISHING HIS APPELLATE REMEDY. (COURTS WILL NOT SEND YOU COPIES OF PLEADINGS A SECOND TIME, UNLESS YOU CAN PAY THE COPYING COSTS, AND BESIDES, I LOST A LOT OF MY PAPERS THAT CONTAINED MY ARGUMENTS, WHEN MY LEGAL PAPERS WERE CONFISCATED OUT OF MY CELL).

BLONDER-TONGUE LABORATORIES, INC,. VS. UNIVERSITY OF ILLINIS FOUNDATION, 402 U.S. 328; THE U.S. SUPREME COURT "HAS NEVER" "DIRECTLY DECIDED" WHETHER THE RULES OF COLLATERAL ESTOPPEL ARE GENERALLY APPLICABLE TO 1983 ACTIONS. (2).

REASONS WHY THIS MOTION SHOULD ISSUE/PART. 11.

2. AYERS VS. CITY OF RICHMOND, 895 F. 2D 1267; "CONFLICTS" WITH, ALLEN VS. McMURRY, 101 S. CT. 411; IN THAT THE U.S. SUPREME COURT HAS SAID THAT (IF THE PARTIES ARE NOT THE SAME IN THE TWO LAWSUITS, COLLATERAL ESTOPPEL NEED NOT APPLY, AND, IF THERE ARE EXCEPTIONAL CIRCUMSTANCES PRESENT, SUCH AS THE LITIGANT DID NOT RECIEVE A FULL AND FAIR OPPORTUNITY TO RAISE OR ARGUE THE ISSUES THE FIRST TIME, THEN THE MATTER OF ISSUE PRECLUSION, COLLATERAL ESTOPPEL, AND RES-JUDICATA CAN BE WAIVED).

(3) MEMORANDA OF LAW IN SUPPORT

HARING VS. ROSISE, 462 U.S. 306;

PASTERCZYK VS. FAIR, 819 F. 2D 12;

(THE CIRCUITS CONFLICT ON THE ISSUE OF WHEN EXACTLY THE DOCTRINE OF COLLATERAL ESTOPPEL IS TO BE APPLIED, AND UNDER WHAT FACTUAL AND OR LEGAL SITUATIONS)

HEATH VS. CAST, 813 F. 2D 254;

BROWNLEE VS. CONNIE, 957 F. 2D 353;

***WELCH VS. SPANGLER, 939 F. 2D 570;

***BUISE VS. HUDKINS, 584 F. 2D 223;

***DAVIS VS. GLOBE, MACHINE & MANUFACTURING CO., 102 WN. 2D 68;

ROSS VS. MOFFITT, 41 L. ED 2D 341;

IBBS VS. BURKE, 337 U.S. 773;

(3).

(3).

## (4). ARGUMENT OF PETITIONER/PLAINTIFF

'LAINTIFF---'OHN ROBERT DEMOS JR, AINTAINS THAT THE LOWER U.S. DISTRICT COURT'S AS A RESULT OF THE 9th CIRCUIT'S DECISION NOT TO ALLOW ME TO APPEAL THE STANDING ORDER REQUIRING ME TO "'ERTIFY THAT MY SUITS HAVE NEVER BEEN FILED BEFORE", RE ENCROACHING 'ORE & MORE ON DEMOS' CONSTITUTIONAL RIGHTS. 'HE U.S. DISTRICT COURT OF SPOKANE, 'A. HAS "BARRED" 'E COMPLETELY, AND THE U.S. DISTRICT COURT OF SEATTLE, A. HAS REFUSED TO ACCEPT ANY "WRITS" FROM ME, 'ND HAS LIMITED ME TO (3) CIVIL RIGHTS COMPLAINTS A YEAR. I AM HEREBY APPEALING TO THE 9th CIRCUIT TO INTERVENE, 'ND EXERCISE SUPERVISORY CONTROL IN THIS 'ATTER. 'THE LAW IS CLEAR, A LITIGANT IS NOT REQUIRED TO SHOW CAUSE, OR SUBMIT A SPECIAL STATEMENT, OR 'ORM/FORM TO THE FEDERAL COURTS SAYING THAT THE ISSUES HE WISHES TO RAISE ARE 'EW, AND HAVE NEVER BEFORE BEEN RAISED, .'. S. CHICAGO, M & ST. '. . O., '5 L. D 359:)

clearly, the order of the 9th CIRCUIT IN DEMOS VS. .'.'.'. 25 F. 2D 1160, 'ND IN THIS PRESENT CASE, U.S. COURT OF APPEALS NO. 1-35598' "'ONFLICT" WITH THE U. . UPREME COURT DECISION IN U.'. S. CHICAGO, M & ST. '. . O., '5 L. d 359:

- PERSON " ANNOT" 'E FORCED TO SURRENDER A CONSTITITONAL RIGHT, Y IMPOSING A PENALTY ON IT'S USE, TATE EX REL. BRUNDAGE VS. 'IDE, 83 WN. 'D 676:

I AM ASKING THAT THE 9th CIRCUIT INVOKE, McMURTRY VS. U.'. '8 L. D 1075, BECAUSE DEMOS HAS EXTRAORDINARY, 'ND EXCEPTIONAL REASONS SHOWING WHY THE DOCTRINE OF COLLATERAL ESTOPPEL SHOULD BE WAIVED BY THE 9th CIRCUIT, AND THAT EXCEPTIONAL REASON IS THAT DEMOS WAS PREVENTED FROM HAVING A FULL, 'ND FAIR OPPORTUNITY TO RAISE, R ADDRESS THE ISSUE OF (THE SAID STANDING ORDERS, 'ND THE SPECIAL PLEADING REQUIREMENTS IMPOSED AGAINST HIM) FEDERAL COURT " UST" BE SOLICITIOUS OF PRO-'E PLEADERS, DEMOS MAINTAINS THAT HE IS NOT AN ATTORNEY, AND THAT THE 9th CIRCUIT SHOULD NOT HOLD DEMOS' 'MISSIONS, 'ND ERRORS IN THE SAME LIGHT AS THEY WOULD A CERTIFIED, AND REPUTABLE ATTORNEY, 'OTTER VS. McCALL, '33 F. 2D 1087: 'EMOS FURTHER AVERS THAT THE DOCTRINE OF COLATTERAL ESTOPPEL IS NOT APPLIED "EVENLY", IN THAT A RICH PERSON MAY BE GIVEN THE BENEFIT OF THE DOUBT ON A COLATERAL ESTOPPEL ISSUE, 'UT A "POOR" 'ERSON WILL NOT BE GIVEN THE SAME BENEFIT OF THE DOUBT. PAYTON VS. '.Y. '45 U.S. 573;



## ARGUMENT OF PETITIONER/PART. 11

DEMOS AVERS THAT IT IS WELL SETTLED THAT PRISON GUARDS DID NOT LIKE DEMOS, 'EMOS WAS SUBJECTED TO RECTAL PROBES BY PRISON GUARDS WITHOUT CAUSE, 'LMOST "LYNCHED" IN HIS CELL BY PRISON GUARDS, ALL ON 'ECOUNT OF HIS LEGAL ACTIVITIES. 'Y ALLEGATIONS ARE A MATTER OF RECORD IN THE UNITED STATES DISTRICT COURT OF SPOKANE, 'ASHINGTON IN U.'.D.C. CASE NO. C-89-785-WFN ;
& CV-91-47-RJM ;

DEMOS ALSO STATES THAT IT WAS A DAILY OCCURANCE FOR PRISON STAFF AT WALLA WALLA STATE PRISON TO DELIBERATELY MISPLACE DEMOS' OUTGOING, 'ND INCOMING LEGAL MAIL, TO TRY AND CIRCUMVENT DEMOS' ACCESS TO THE COURTS, ALSO, 'RISON GUARDS WOULD ENTER MY CELL UNDER THE GUISE OF A "SECURITY CHECK", 'ND CONFISCATE MY LEGAL PAPERS, I HAVE MADE THESE ALLEGATIONS MANY YEARS AGO TO THE 9th CIRCUIT AS WELL, 'O IT'S NOT LIKE I AM MERELY MAKING THESE CLAIMS ANEW, TO TRY AND PERSUADE THE 9th CIRCUIT. ' HAVE A LONG HISTORY OF PETITIONING THE U.S. 'ISTRICT COURT OF SPOKANE, WA., TO INFORM THEM THAT I WAS BEING VICTIMIZED, ABUSED, 'ERSECUTED, AND ANTAGONIZED BY PRISON GUARDS WHILE I WAS CONFI'ED AT THE STATE PENITENTIARY IN WALLA WALLA, WASHINGTON.

'HY DID PRISON GUARDS CONFISCATE MY LEGAL PAPERS, 'ECAUSE THEY KNEW THAT I WOULD BE "INEFFECTIVE" 'N MY PLEADINGS IF I DID NOT HAVE MY LEGAL PAPERS, 'XHIBITS, AFFIDAVITS, 'ND LAWBOOKS, ' HAD MY OWN PRIVATE LAW BOOKS FROM THE GEORGETOWN LAW JOURNAL.

I REPEAT, 'T WAS DUE TO CIRCUMSTANCES OUTSIDE OF MY CONTR'L, THAT I WAS NOT ABLE TO ENTER A TIMELY APPEAL TO CHALLENGE THE STANDING ORDERS OF THE LOWER U.S. DISTRICT COURT OF SPOKANE, 'A. BECAUSE,I AM ILLITERATE OF LAW, 'ND CANNOT FUNCTION WITHOUT MY LAWBOOKS, I ASK THAT THE COURT CONSIDER MY PLIGHT A "EXCEPTIONAL CIRCUMSTANCE", 'ND WAIVE THE APPLICATION OF THE COLLATERAL ESTOPPEL DOCTRINE AGAINST ME, FRANKLIN VS. 'REGON, 662 F. 'D 1337; WILSON VS. 'IRARD, 354 U.S. '24; 'PEARS VS. U.S. 266 F. 'UPP, 22; 'LDABE VS. ALDABE, '16 F. 2D 1089:

'URTHER, DEMOS MAINTAINS THAT THE 9th CIRCUIT PURSUANT TO IN RE LANE, '01 F. 2D 1040 SHOULD HAVE APPOINTED ME COUNSEL IN THIS MATTER OF THE APPEAL OF THE "STANDING ORDERS".

(5). ONCLUSION

EMOS MAINTAINS THAT PURSUANT TO HAINES VS. KERNER, 04 U.S. 519: THE 9th CIRCUIT HAS A DUTY TO ALLOW DEMOS THE BENEFIT OF THE DOUBT, AND NOT APPLY THE "OOSE", THE HANGMAN'S NOOSE OF COLLATERAL ESTOPPEL AROUND PLAINTIFF' EMOS' ECK SO TIGHTLY. EMOS IS A LAYMAN IN THE LAW, AND ON TOP OF THAT, HE INCIDENT WHICH CAUSED DEMOS TO BE "ATE" WITH HIS APPEAL OF THE STANDING ORDER, WAS AN ACT THAT WAS BEYOND HIS CONTROL. (DEMOS HAD NO WAY OF STOPPING THE OFFICERS FROM GOING INTO HIS CELL AND TAKING HIS LEGAL BOOKS, PAPERS, ND NOTES, NOR COULD MR. EMOS GET THE LOWER U. . ISTRICT COURT TO SEND HIM ANOTHER COPY OF THE ORDER IT HAD SENT ME "PLACING RESTRICTIONS" UPON HE. ND DEVISING SPECIAL RULES.

PURSUANT TO ALLEN VS. WRIGHT, 04 S. CT. 315: DEMOS MAINTAINS THAT HE HAS ARTICLE 111 STANDING TO BRING THIS ISSUE/CONTROVERSY BEFORE THE 9th CIRCUIT FOR ADJUDICATION. THE QUESTIONS THAT MUST BE SOLVED ARE MANY, S CONGRESS HAS NOT FORECLOSED A REMEDY TO ME IN THIS MATTER ECAUSE OF EVENTS THAT TOOK PLACE THAT WERE BEYOND MY CONTROL, ND I DID NOT RECEIVE A FULL & FAIR OPPORTUNITY TO CONTEST THE ISSUANCE OF THE STANDING ORDERS AT THEIR DOPTION, AND INITIAL FORMULATING BY THE U.S. DISTRICT COURT, MIDDLESEX COUNTY SEWERAGE AUTHORITY VS. ATIONAL SEA CLAMMERS ASSN, 53 U.S. 1;

THE ACTIONS OF THE LOWER STATE COURTS, AND THE LOWER FEDERAL COURTS IN REGARDS TO BEING ALLOWED ACCESS, AS YOU KNOW HAS CAUSED ME A LOT OF MENTAL DISTRESS, ND AGONY, DOE VS. D. OF C., 97 F. 2D 1115;

THE (3) MOST IMPORTANT CASES EVER DECIDED BY THE U.. UPREME COURT ARE, ARBURY VS. ADISON, U.S. 1 CRANCH, MARTIN VS. UNTER'S LESSEE, 14 U.S. 1 HEAT, 04; EX PARTE YOUNG, 09 U.S. 123; (DEMOS PRAYS THAT THIS INSTANT CASE WILL ONE DAY SIT ALONG SIDE THE 3 ILLUSTRIOUS AFOREMENTIONED CASES). DEMOS MAINTAINS THAT UNLESS THE 9th CIRCUIT INTERVENES IN THIS MATTER, THEY WILL " AVE DONE VIOLENCE TO THE VERY PURPOSE OF THE CIVIL RIGHTS ACT, OR IT IS CLEAR DEMOS DID NOT HAVE A "JURY TRIAL" IN THE LOWER U.S. DISTRICT COURT, AND HAD IT NOT BEEN FOR THIS FACT, DEMOS WITHOUT QUESTION WOULD HAVE BEEN ENTITLED TO A JURY TRIAL IN THE 9th CIRCUIT, PURSUANT TO THE 7th AMMENDMENT OF THE U.. ONSTITUTION, AND RULE 38 OF THE FEDERAL RULES OF CIVIL PROCEDURE. (6).

ONCLUSION/PART. 11.

THE CENTRAL QUESTION BEFORE THE 9th CIRCUIT IS WHETHER DEMOS CAN LOSE HIS CONSTITUTIONAL RIGHT TO A "JURY TRIAL" IN THIS MATTER, ND THE MATTER OF APPEALING THE "STANDING ORDERS" BY BEING BARRED BY COLLATERAL ESTOPPEL, HEN THE ISSUE TO BE DECIDED HAS BEEN ADJUDICATED ADVERSELY TO DEMOS IN A PRIOR ORDER/PROCEEDING AT WHICH THERE WAS NO RIGHT TO A TRIAL BY JURY. BEACON THEATRES VS. ESTOVER, 359 U.. 00;

ACHAL VS. ILL, 35 F. 2D 59;

EVERGREENS VS. URAN, 41 F. 2D 927;

DEMOS MAINTAINS THAT NONE OF THE PARTIES NAMED IN THIS SUIT?SUIT. WERE PARTIES TO THE OTHER LAWSUIT OF DEMOS VS. U.S.D.C. 925 F. D 1160; THUS, DEMOS MAINTAINS THAT THE DOCTRINE OF COLLATERAL ESTOPPEL. ND RES JUDICATA SHOULD BE "LIFTED", AND OR "WAIVED", U.S. VS. ARRISON COUNTY, 399 F. D 485: EMOS MAINTAINS THAT COLLATERAL ESTOPPEL SHOULD ONLY APPLY TO THOSE CASES THAT HAVE BEEN COMPLETELY LITIGATED, DEMOS MAINTAINS THAT THE ISSUE OF HIS BEING DENIED ACCESS TO THE COURTS IS A CONTINUING ONTROVERSY, ND HAS NEVER BEEN COMPLETELY ADJUDICATED, CROMWELL VS. OUNTY OF SAC, 4 U.S 351; STATE VS. OODEN, 1 WN. APP. 615; ***KREMER VS. CHEMICAL CONSTRUCTION CORP, 456 U.S. 61;

N CONCLUSION, I ASK THAT THE 9th CIRCUIT "REVERSE ITSELF", ND GRANT THE PETITIONER THE RELIEF HE REQUESTS, SPECIFICALLY, THAT THE "AR ORDER" THAT THE LOWER U.S. DISTRICT COURT'S OF WASHINGTON HAVE PLACED UPON ME BE "LIFTED". NEED I SAY MORE.?

WHEREFORE, PLAINTIFF/AFFIANT SAYETH NAUGHT.

1st John R. Demos

JOHN ROBERT DEMOS JR (PLAINTIFF)

(7).

FILED
RECEIVED
LODGED
NOV 20 1992
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA
BY DEPUTY

IN THE

UNITED STATES DISTRICT COURT OF

TACOMA, WA.

| | |
|---|---|
| JOHN ROBERT DEMOS JR, (PLAINTIFF) VS. MICHAEL C. STORRIE, FELIX MASSAIA, ET AL., (DEFENDANTS) | U.S.D.C. CASE NO. JD-17-RJB<br>9th CIR. CASE NO. 91-35598<br>"NOTE FOR MOTION DOCKET & CALENDAR" |

TO: THE CLERK OF THE ABOVE REFERENCED COURT:

COMES NOW THE PETITIONER/PLAINTIFF, JOHN ROBERT DEMOS JR, AND RESPECTFULLY MOVES THE UNITED STATES DISTRICT COURT OF TACOMA, WA. TO NOTE FOR CALENDAR AND DOCKET, PLAINTIFF'S MOTION FOR THE PRODUCTION OF DOCUMENTS.

THE CLERK IS HUMBLY REQUESTED TO CALENDAR, AND DOCKET THE MOTION FOR THE 3rd FRIDAY FOLLOWING THE NOTICE OF FILING (THE 20th DAY OF NOVEMBER, 1992) OR AS SOON THEREAFTER AS THE SAME CAN BE HEARD...

PLAINTIFF REQUESTS THAT THE U.S. DISTRICT COURT COMPLY WITH THIS DOCKET REQUEST SPEEDILY, SO THAT PLAINTIFF CAN "TIMELY" FILE HIS PLEADINGS WITH THE U.S. SUPREME COURT....

/s/ John R. Demos

JOHN ROBERT DEMOS JR

11/15/92

FILED
RECEIVED
NOV 20 1992
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

IN THE

UNITED STATES DISTRICT COURT OF

TACOMA, WASHINGTON.

| | |
|---|---|
| JOHN ROBERT DEMOS JR, (PLAINTIFF) VS. MICHAEL C. STORRIE, FELIX MASSAIA, ET AL., (DEFENDANTS) | U.S.D.C. CASE NO. JD-17-RJB<br>9th CIRCUIT CASE NO. 91-35598<br>"MOTION FOR THE PRODUCTION OF DOCUMENTS"<br>COURT RULE # 7 |

TO: THE CLERK OF THE ABOVE REFERENCED COURT:

COMES NOW THE PLAINTIFF/PETITIONER, JOHN ROBERT DEMOS JR, AND MOVES THIS HON. UNITED STATES DISTRICT COURT FOR A MOTION FOR THE PRODUCTION OF DOCUMENTS:

I COME BEFORE THE COURT WITH CLEAN HANDS, AND IN GOOD FAITH:

(1). REASONS FOR MOTION

A: THE UNITED STATES SUPREME COURT HAS REQUESTED THAT I OBTAIN A COPY OF THE U.S. DISTRICT COURT ORDER "DISMISSING" MY CASE/SUIT. (SEE U.S. SUPREME COURT MEMO ATTACHED)

B: I HAVE A "PARTICULARIZED"NEED FOR THE DOCUMENTS.

C: WITHOUT THE REQUESTED DOCUMENTS, THE U.S. SUPREME COURT WILL NOT GRANT ME CERTIORARI.

(2). MEMORANDA OF LAW IN SUPPORT

STATE VS. WOODARD, 26 WN. APP. 735;

GRIFFIN VS. ILLINOIS, 352 U.S. 12;

U.S. VS. MacCOLLOM, 426 U.S. 317;

N.L.R.B. VS. SEARS ROEBUCK, 44 L. ED 2D 29;

MEMORANDA OF LAW IN SUPPORT/PART. 11.

5 U.S.C.A. 552 (A) (D) (2);

LEUMI FINANCIAL CORP VS. HARTFORD ACCIDENT AND INDEMNITY CO., 295 F. SUPP. 539;

IN RE NATTA, 48 F.R.D. 319;

(3). CONCLUSION

DEMOS PRAYS IN CONCLUSION, THAT THE UNITED STATES DISTRICT COURT OF TACOMA, 'ASHINGTON WILL FORWARD HIM (1) COPY OF THE "ORDER" OF THE U.S. DISTRICT COURT IN THIS MATTER "DISMISSING" MY CASE/LAWSUIT. (I BELIEVE THE ORDER OF DISMISSAL WAS A NOTATION ORDER) AS SOON AS I RECIEVE A COPY OF YOUR ORDER, I SHALL SUBMIT IT ALONG WITH MY WRIT OF CERTIORARI BACK TO THE UNITED STATES SUPREME COURT.

IN CASE YOU ARE WONDERING WHAT HAPPENED TO THE COPY THAT YOU SENT ME ORIGINALLY, ALLOW ME TO EASE YOUR MIND, PRISON GUARDS CONFISCATED A LOT OF MY LEGAL PAPERS, SAYING THAT MY LEGAL PAPERS WERE OUT OF DATE, AND COULD BE A FIRE HAZARD, SO I LOST THE ONLY COPY OF THE COURT ORDER THAT I HAD IN MY POSSESSION, HOWEVER, REST ASSURED, THIS COPY THAT YOU SEND ME WILL NOT BE LEFT LYING AROUND IN MY CELL, BUT WILL BE FORWARDED DIRECTLY TO THE CLERK OF THE UNITED STATES SUPREME COURT AS THEY HAVE REQUESTED)

NEED I SAY MORE? WHEREFORE, PLAINTIFF DEMOS AVERETH NAUGHT.

/s/ John R. Demos

JOHN ROBERT DEMOS JR

11/15/92



FILED
MAY 22 1992
CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

| | | |
|---|---|---|
| JOHN ROBERT DEMOS, JR., Plaintiff-Appellant, v. DR. MICHAEL STORRIE, Defendant-Appellee. | ) | No. 91-35598 ORDER |

Before: HUG, THOMPSON and FERNANDEZ, Circuit Judges.

Appellant's motion to have oral argument is denied.

(3)

# SUPREME COURT OF THE UNITED STATES

JOHN ROBERT DEMOS, JR. *v.* MICHAEL C. STORRIE ET AL.

ON MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

No. 92–6846. Decided March 8, 1993

PER CURIAM.

*Pro se* petitioner John R. Demos, Jr. has made 48 *in forma pauperis* filings in this Court since the beginning of the October 1988 Term, many of which challenged sanctions imposed by lower courts for frivolous filings. Almost two years ago, we prospectively denied Demos leave to proceed *in forma pauperis* "in all future petitions for extraordinary relief." *In re Demos*, 500 U. S. ——, —— (1991) *(per curiam)*. At that time, we said that Demos "remains free under the present order to file *in forma pauperis* requests for relief other than an extraordinary writ, if he qualifies under this Court's Rule 39 and does not similarly abuse that privilege." *Ibid.*

Since then, Demos has filed 14 petitions for certiorari. We denied the first seven petitions outright, and denied Demos leave to proceed *in forma pauperis* under our Rule 39.8 as to the following six. Today, we invoke Rule 39.8 again with respect to the instant petition. Demos is allowed until March 29, 1993, within which to pay the docketing fees required by Rule 38 and to submit the petition in compliance with this Court's Rule 33. Because Demos has refused to heed our prior warning, we further direct the Clerk to reject all future petitions for certiorari from Demos in noncriminal matters unless he pays the docketing fee required by Rule 38 and submits his petition in compliance with Rule 33. See *Martin* v. *District of Columbia Court of Appeals*, 506 U. S. —— (1992) *(per*

2pp

*curiam).* Demos' continued course of abusive filings plainly warrants this sanction.

*It is so ordered.*

# SUPREME COURT OF THE UNITED STATES

JOHN ROBERT DEMOS, JR. *v.* MICHAEL C. STORRIE ET AL.

ON MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

No. 92–6846. Decided March 8, 1993

JUSTICE STEVENS, with whom JUSTICE BLACKMUN joins, dissenting.

In my opinion, the administration of special procedures for disposing of repetitive and frivolous petitions is less efficient than our past practice of simply denying such petitions.* I continue to adhere to my previously stated views on this issue, see *Martin* v. *District of Columbia Court of Appeals*, 506 U. S. ___, ___ (1992) (STEVENS, J., dissenting); *Zatko* v. *California*, 502 U. S. ___, ___ (1991) (STEVENS, J., dissenting), and would deny certiorari rather than invoking Rule 39 in this case. Accordingly, I respectfully dissent.

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*The next issue the Court will confront in developing its Rule 39.8 jurisprudence, for instance, is whether to apply orders like today's retroactively, to petitions pending on the date they are issued.